

Notice of Allowability

Application No.

09/887,082

Examiner

Steven D. Maki

Applicant(s)

MIYAMOTO ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10-30-03.
2. ☒ The allowed claim(s) is/are 1-4 and 6-19.
3. ☒ The drawings filed on 30 October 2003 and 25 June 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/147140.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Examiner's Amendment

1) An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

In the specification:

on page 1 lines 3 and 4 of the specification, change "U.S. Application No. 09/147,140, filed October 16, 1998" to -- U.S. Application No. 09/147,140, filed December 17, 1998, now US Patent 6,309,485--.

The above change to the continuing data corrects an obvious error and updates the continuing data. See MPEP 1302.04. With respect to the obvious error, the filing date of 09/147,140 is 12-17-98 (the date of receipt of 35 USC 371(c)(1), (c)(2) and c(4) requirements) instead of the filing date described in the declaration (the date applicant filed the specification). See MPEP 1893.03(b).

2) The corrected formal drawings filed 10-30-03 have been approved and are acceptable to the examiner.

Reasons for Allowance

3) The following is an examiner's statement of reasons for allowance:

The 35 USC 112 rejections have been withdrawn in view of the amendment to the claims filed 10-30-03 and applicant's corresponding arguments.

The terminal disclaimer filed 10-30-03 has been received and is proper. Accordingly, the obvious type double patenting rejection over US 6309485 has been withdrawn.

The obvious type double patenting rejection over 09/887081 has been withdrawn in view of applicant's argument in the first full paragraph on page 17 of the response filed 10-30-03.

The obvious type double patenting rejection over 09/887083 has been withdrawn in view of applicant's argument in the second full paragraph on page 17 of the response filed 10-30-03.

The prior art rejections in the last office action have been withdrawn since (1) the allowable subject matter (paragraph 22 of last office action dated 7-30-03) was added to claims 1 and 14 in the amendment filed 10-30-03 and (2) the obvious type double patenting rejection over US 6309485 has been withdrawn as noted above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

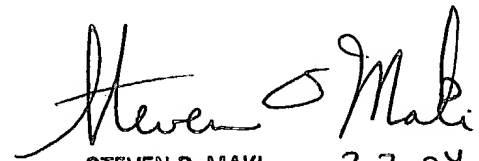
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
February 2, 2004


STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
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2-2-04